

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

ORDER

After due and proper consideration of all portions of this file deemed relevant to the issues raised, and a de novo determination of those portions of the Report and Recommendation to which objection is made, the Report and Recommendation of the Magistrate Judge made under 28 U.S.C. §636(b)(1)(B) is **ADOPTED** as the opinion of this Court with the following amendment: The Report and Recommendation is amended to reflect that the complaint was filed on March 12, 2009 instead of July 2, 2009.

It is **ORDERED** that this action be and is hereby **DISMISSED**, prior to service of process, pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) as frivolous.

Done this 15th day of October, 2009.

s/ Kristi K. DuBose
KRISTI K. DuBOSE
UNITED STATES DISTRICT JUDGE